

REMARKS

Applicant having amended Claim 1, Claims 1 and 5-9 now remain in this patent application.

Claim 1 has been amended to more particularly recite that the assembly is one piece. Support for the amendment of Claim 1 is found in FIG. 3.

Applicant respectfully submits that the amendment of Claim 1 has been made in good faith, that no new matter has been added and that Claims 1 and 5-9 are in proper form for allowance.

a. §103(a); Burns

Claims 1 and 5-9 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,458,854 to Burns.

It is the examiner's position that it would have been an obvious matter of design choice to form the false bottom into an arcuate shape, since such a modification would have involved a mere change in the shape of the component. The examiner further states that a change in size is generally recognized as being within the level of ordinary skill in the art.

Applicant respectfully traverses the rejection and submits that Claims 1 and 5-9 would not have been obvious over Burns.

Burns discloses a collection assembly with a bottom edge 47 that is not rounded (as shown in Fig. 1) for allowing the container to be placed upright on a flat surface. Burns further discloses that an extension be added to Burns to make it compatible with instrumentation.

The present invention as recited in amended Claim 1 is a once piece collection container assembly comprising a solid partition and a second end comprising a false bottom end which comprises a rounded open bottom end extending from an arcuate shoulder. The present invention is a one piece collection container that is compatible with clinical equipment and does not require any additional apparatus or extensions to be compatible with clinical equipment.

Applicant respectfully submits that Burns does not teach or suggest a false bottom container having a rounded open bottom end extending from an arcuate shoulder. Applicant further submits that a false bottom container having a rounded open bottom end extending from an arcuate shoulder is not a matter of design choice. Applicant

respectfully traverses such an assertion by the Examiner without proper foundation from a reference in support of the Examiner's personal opinion.

Applicant respectfully submits that the present invention is compatible with standard clinical equipment and instruments as compared with the device disclosed in Burns. Burns is not compatible with standard clinical equipment unless modified with an adapter that is secured to the bottom the Burns device.

Applicant respectfully submits that the Examiner's remarks regarding Applicant's amendment filed on March 6 do not relate to Applicant's amendment. Applicant respectfully submits that the reference to a secondary reference and hindsight reasoning are not applicable.

Applicant further submits that the Examiner's remarks that it would be obvious to provide Burns with a rounded bottom end must be supported by published documents for applicant's consideration. Applicant further submits that the arcuate shoulder is not suggested or taught in Burns.

Applicant respectfully requests reconsideration and withdrawal of the rejection.

CONCLUSION

Allowance of this application is courteously urged.

Respectfully submitted,

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